

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FREDDY SANCHEZ,

Plaintiff,

-v-

No. 07 Civ. 6293 (LTS)(JCF)

MICHAEL J. ASTRUE,
Commissioner of Social Security

Defendant.

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ORDER ADOPTING REPORT AND RECOMMENDATION

Plaintiff Freddy Sanchez ("Plaintiff" or "Sanchez"), who contends that he is disabled due lower back and leg pain, brought this action seeking review of a final determination of the Defendant, the Commissioner of Social Security ("Defendant" or "Commissioner"), denying Plaintiff a period of disability and disability insurance benefits under 42 U.S.C. §§ 416(i) and 423(d). On September 17, 2008, Magistrate Judge James C. Francis IV, issued a Report and Recommendation (the "Report"), recommending that Plaintiff's Motion for Judgment on the Pleadings pursuant to Federal Rule of Civil Procedure 12(c) be denied and that Defendant's Cross-motion for Judgment on the Pleadings be granted, and that judgment be entered for the Commissioner. Plaintiff filed a timely objection to the Report by way of letter dated September 23, 2008, to the Court. Defendant filed no objections to the Report. The Court has reviewed thoroughly the Report and Plaintiff's objections to the Report.

BACKGROUND

The Report contains a comprehensive summary of the record below and familiarity

with that summary is assumed.

DISCUSSION

Legal Standard

The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C.A. § 636(b)(1) (West 2006). The Court is required to make a de novo determination as to the aspects of the Report to which objections are made. United States v. Male Juvenile, 121 F.3d 34, 38 (2d Cir. 1997). However, if the objecting party makes only conclusory or general objections, or simply reiterates the original arguments, the Court will review the Report strictly for clear error. See United States ex rel. Casa Redimix Concrete Corp. v. Luvin Construction Corp., 00 Civ. 7552 (HB), 2002 WL 31886040, at *1 (S.D.N.Y. Dec. 27, 2002); Camardo v. General Motors Hourly-Rate Employees Pension Plan, 806 F. Supp. 380, 382 (W.D.N.Y. 1992); Vargas v. Keane, No. 93 Civ. 7852 (MBM), 1994 WL 693885 at *1 (S.D.N.Y. Dec. 12, 1994). Objections to a Report and Recommendation “are to be specific and are to address only those portions of the proposed findings to which the party objects.” Camardo, 806 F. Supp. at 381-382. “It is improper for an objecting party to attempt to relitigate the entire content of the hearing before the Magistrate Judge by submitting papers to a district court which are nothing more than a rehashing of the same arguments and positions taken in the original papers submitted to the Magistrate Judge.” Id. at 382.

Plaintiff's Objections

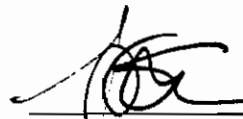
Plaintiff's objections to the Report simply reiterate the arguments that Plaintiff made to Magistrate Judge Francis in support of his motion. Plaintiff objects to consideration of his ability to sit through the hearing before the Administrative Law Judge, he objects to the weight

given to the opinions of Dr. Sayegh, and he objects to the treatment of the vocational expert's testimony. These are all arguments that Plaintiff made to Magistrate Judge Francis, and which Judge Francis considered in recommending that Plaintiff's motion be denied. (See Docket Entry No. 12, Report, pp. 11-13, 14, 16.) Therefore the Court applies a clear error standard of review.

The Court has thoroughly reviewed Judge Francis's comprehensive and well-reasoned Report and finds no clear error. Accordingly, the Court adopts Judge Francis's Report and Recommendation in its entirety. For the reasons stated in the Report, Plaintiff's motion is denied, Defendant's motion is granted, and the Clerk of Court is respectfully requested to enter judgment in favor of Defendant and terminate this case. This Order resolves Docket Entry Nos. 7 and 10.

SO ORDERED.

Dated: New York, New York
March 30, 2009



LAURA TAYLOR SWAIN
United States District Judge